

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

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KEZIAH THAYER, MARTHA THAYER, )  
and ELAM THAYER, )

Plaintiffs,<sup>1</sup> )

v. )

Case No. 5:19-cv-223

LAURA KNOWLES, Supervisor Vermont )  
Department for Children and Families )  
("DCF"); KAREN SHEA, Former Deputy )  
Commissioner for the DCF Family Services )  
Division ("FSD"); MONICA BROWN, )  
DCF Case Worker; CHRISTOPHER )  
CONWAY, DCF Case Worker; JENNIFER )  
BURKEY, DCF District Director, )  
JACQUELINE PELL, DCF Family )  
Services Supervisor, SARAH KAMINSKI, )  
DCF Case Worker, each in their individual )  
capacities; KENNETH SCHATZ, )  
Commissioner, DCF, in his individual and )  
official capacities; JOHN W. DONNELLY, )  
individually; and JOHN W. DONNELLY, )  
Ph.D., PLLC; CHRISTINE JOHNSON, )  
Deputy Commissioner of DCF, for the FSD; )  
and the VERMONT DEPARTMENT OF )  
CHILDREN AND FAMILIES, )

Defendants. )

**ENTRY ORDER**

The parties have engaged in substantial motion practice since this case was filed in November 2019. The court ruled on multiple motions in its December 14, 2021 Opinion and Order. (Doc. 137.) The court issued a further ruling on reconsideration on May 24, 2022. (Doc. 180.) Most recently, the court denied Ms. Thayer's motion for an order certifying an

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<sup>1</sup> All plaintiffs are proceeding under pseudonyms to protect their privacy.

interlocutory appeal (*see* Doc. 205) and granted Lund Family Center, Inc.’s motion to dismiss all claims against it (*see* Doc. 208).

Under the currently operative Second Amended Complaint (SAC) (Doc. 188), Plaintiff Keziah Thayer’s only remaining claims are the claims in Counts VI and VII against John W. Donnelly and John W. Donnelly, Ph.D., PLLC (the “Donnelly Defendants”). The other remaining claims are all claims by Ms. Thayer’s parents, Martha and Elam Thayer. Those “Grandparent” claims are:

- An Americans with Disabilities Act (ADA) claim against DCF (Count IV);
- A Rehabilitation Act claim against DCF (Count V);
- A claim under 42 U.S.C. § 1983 for alleged violations of substantive and procedural due process against all “Liability Defendants”<sup>2</sup> except for the Donnelly Defendants and the Lund Family Center, Inc. (“Lund”) (Count VIII);
- A claim for intentional infliction of emotional distress against all Liability Defendants except for the Donnelly Defendants and Lund (Count IX); and
- A claim for civil conspiracy against all Liability Defendants except for Lund (Count XI).

These Grandparent claims are further limited in at least two ways. First, the statute of limitations bars any Grandparent claims arising out of the initial removal, nonreturn, and temporary placements of their grandchildren during the CHINS proceeding. (Doc. 180 at 30.)

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<sup>2</sup> The Second Amended Complaint lists the Liability Defendants as: Laura Knowles, Karen Shea, Monica Brown, Christopher Conway, Jennifer Burkey, Jacqueline Pell, Sarah Kaminski, Kenneth Schatz, John W. Donnelly, John W. Donnelly, Ph.D., PLLC, and the Lund Family Center, Inc. (Doc. 188 at 2.)

Second, in its December 14, 2021 Opinion and Order, the court ruled that Eleventh Amendment immunity bars all of Grandparents' claims for money damages against DCF and against Defendants Schatz and Johnson in their official capacities. (Doc. 137 at 72.) As the court previously noted (*id.* at 45), Grandparents did not seek to join Count XII of the SAC—the declaratory and injunctive relief count—but the SAC also states that “Plaintiffs” (presumably including Grandparents) seek to “[e]njoin the Declaratory/Injunctive Defendants.”<sup>3</sup> (Doc. 188 at 111.) The court requests that Grandparents clarify whether their claims in Counts IV, V, VIII, IX, and XI seek declaratory or injunctive relief from Mr. Schatz, Ms. Johnson, DCF, or any other defendant.

The currently operative Discovery Schedule/Order sets deadlines for various stages of discovery and requires that all discovery be completed by March 13, 2023. That order also sets an April 14, 2023 deadline for summary judgment motions. (Doc. 197.) The court requests that the parties advise, if able, what motions they anticipate filing.

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 26<sup>th</sup> day of September, 2022.

  
 Geoffrey W. Crawford, Chief Judge  
 United States District Court

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<sup>3</sup> The Second Amended Complaint lists the Declaratory/Injunction Defendants as Kenneth Schatz, Christine Johnson, and DCF. (Doc. 188 at 2.)